

FACULTY OF LAW UNIT REVIEW

Summary Report

The Site Visit of the Review Team for the University of Calgary's Faculty of Law took place from February 8-9, 2022. Due to COVID-19, the site visit took place virtually. The Review Team consisted of:

Janet Austin, University of New Brunswick

Carla Pratt, Washburn University

Gemma Smyth, University of Windsor

Mary O'Brien, University of Calgary

Following the Site Visit, the Unit Review Team prepared a written report containing comments and recommendations. A short response to each recommendation has been provided. General comments and the recommendations and responses follow.

General Comments of the Unit Review Team

Preamble

The Reviewers' comments and recommendations should be considered having regard to a number of key issues. Due to the continuing pandemic, the Review Team conducted its site visit via Zoom. The Review Team does not believe that conducting the process via Zoom detracted from the process or should be considered when evaluating the recommendations, except perhaps to the extent that the Review Team was unable to physically view the Faculty of Law Building.

Law schools across Canada (and in fact in most countries) are sometimes a challenging fit with the rest of a university. Law faculties are professional programs blending theory and practice. Historically, the dominant research method for law professors consisted of the stylised analysis of judge-made law and policy; however, in recent years that singular method has expanded to many inter- and multi-disciplinary methods, alongside increased interest in lawyering practice, international law, social justice, and many other areas. In addition, JD students are classified as undergraduates although almost all have already completed an undergraduate degree. Nonetheless, JD degrees tend to be "generalist" in that students are typically exposed to a wide variety of practice areas. Specialisation is possible, but challenging, given that law students often are not sure what area of law they will choose to practice. Also shared amongst Law faculties is the common belief that holding all teaching and activities in a single building creates the best environment for learning and creating connections. This is particularly true in that the professional norms and relationships often occur in co- and extra-curricular Law contexts. In addition (and as noted in the Faculty's self-study), some of the research undertaken within the law school tends not to be recognised outside of the legal profession. For example, citation and use of research by the Supreme Court of Canada and other Courts has a significant impact on the law, with flow on effects to society, but is usually not captured by traditional research metrics. Nevertheless, the Review Team noted that significant efforts have been made by the Faculty of Law to reach out to, and work with, other faculties across the University. Given the diverse array of research undertaken by the Faculty, there is also significant potential for growth in interdisciplinary and transdisciplinary approaches which fit within each of the Areas of Focus contained within the University's *Framework for Growth*.

Canadian law schools must also have regard to the rapidly changing regulatory environment. The Federation of Law Societies of Canada has formed a committee (on which Dean Holloway sits) that is reviewing the National Accreditation Requirements. While the outcome of this process is unclear, the Federation has signalled interest in competency-based legal education and practice skills in the curriculum. Provincial Law Societies have also questioned the role of articling and bar admissions processes. The future of licensure in the various Canadian provinces and territories remains unclear. While these issues were not raised as concerns by stakeholders, the Faculty of Law must remain nimble in ensuring its JD program meets the requirements set out by the Federation in a future-focused way.

The Strengths of the Unit

The Review Team was genuinely impressed by Faculty of Law and the majority of comments by those interviewed were overwhelmingly positive. In particular:

- Significant work has been done on curriculum and developing what has become known as “the Calgary Curriculum”. This incorporates many innovative courses including some not available at other law schools, experiential learning opportunities and connections with the bar. Sometimes law schools have experienced difficulties melding theory and practice, yet that does not seem to be the case here. The Faculty of Law has effectively implemented its curriculum despite the often resource-intensive requirements of a praxis approach—particularly the experiential learning requirement. We heard many positive comments from internal and external stakeholders about the Calgary Curriculum. For example, legal practitioners were very impressed with how this curriculum seems to have enhanced the abilities and skills of the graduates of the program as they enter practice.
- Although in some law schools students can struggle to find articling placements after graduation, the Faculty of Law has one of the highest articling placement rates in Canada.
- The Dean is well known and highly respected with both internal and external stakeholders. He has fostered and maintained strong networks. These have made, and they continue to make, a very valuable contribution to both the Faculty of Law and the University in many ways, including for student employment, experiential learning opportunities and development dollars. While stakeholders were not necessarily aware of this, the reviewers are familiar with Dean Holloway’s national reputation as a thought leader and mentor to what is a quite junior team of Law deans across Canada. The Dean is also well liked by staff, faculty and students who appreciate his open and transparent leadership.
- The Faculty of Law is very well connected to the legal community in Alberta. For example, practitioners valued the “Saturday Morning at the Law School” lecture series as a way to continue their education and connect with others in the legal profession. Sessional instructors seem willing and eager to contribute their knowledge to the Faculty.
- Significant progress has been in relation to EDI issues. For example, the number of students and faculty from equity-deserving groups has increased over the last few years. Dean Holloway has

been seen as responsive to events that particularly impact Black and Indigenous students, proactively reaching out and scheduling monthly meetings.

- Some progress has also been made in response to the TRC Calls to Action. This includes an increase in the number of Indigenous students, expansion of research in this area, a menu of courses, and relationship building with local communities. Members of one local Indigenous community praised the University of Calgary's leadership in facilitating *ii'taa'poh'to'p*, which sets out a "pathways" framework. This framework is useful for the Faculty's ongoing commitments to Indigenization and decolonization.
- The Faculty of Law has many long-serving staff who are very dedicated, work well as a team, feel a sense of ownership in the Faculty, and have shown themselves to take on different and multiple responsibilities to ensure its success. This became particularly evident during COVID-19.
- Students can access a wide range of services. This includes ASSIST mental health supports, professional development, and job placement services. The Faculty takes concrete steps to ensure that students can make connections to those who work within their area of interest. The Faculty is small and values relationships.
- The research undertaken within the Faculty of Law is diverse and impactful. For example, many stakeholders praised the Faculty of Law's award-winning blog, ABLawg (<https://ablawg.ca/>). There are also unique research strengths that set the Faculty apart from its comparator schools across the country.
- Recent initiatives, including the Foreign-Trained Lawyers Program, suggests that the Faculty of Law continues to diversify its student body and revenue sources.
- The Law Faculty expressed no concerns about faculty governance. Hence, the Dean seems to have achieved appropriate balance in the academic model of shared governance.

Stakeholder Groups

The Review Team had the opportunity to meet with stakeholder groups representing University of Calgary leadership, faculty members from within and outside of the Faculty of Law, sessional instructors, staff, and students. The team also met with Indigenous Elders affiliated with the University of Calgary and with a number of alumni and community stakeholders. More specifically, individual meetings were held with the following groups:

- *ii' taa'poh'to'p* Circle of Indigenous Scholars
- Indigenous Elders
- Faculty members who focus on NREEL
- Faculty members from Law (outside of NREEL)
- Deans of Cognate Faculties
- Management and Professional Staff (Op/Res)
- Sessional Instructors

- Community Members/Alumni
- Students Society of Law Student (SLS)
- Leaders within Law Centres, Clinics and Programs
- Support Staff (Admin/Technical) – AUPE (Op/Res)
- Key Faculty, Staff and Students working on Equity, Diversity, and Inclusion
- Associate Deans

Findings and Recommendations:

The Review Team's assessment of the Faculty of Law is overwhelmingly positive. The recommendations that follow are made as a result of fruitful consultations with all stakeholder groups. Addressing these issues will ensure that the work done by the Faculty of Law is responsive and impactful for many years to come.

Reviewer Recommendations and Unit Response Follow-up

STRUCTURE AND GOVERNANCE

Recommendation 1: In succession planning for the new Dean, the University should consider engaging the current Dean, Ian Holloway, as a consultant after his term ends with a view to assisting the new dean to foster networks within the legal community.

Response:

The process for onboarding and transitioning of the new Dean, Faculty of Law will be a decision for the Provost and Vice President (Academic).

Recommendation 2: Consider how faculty service assignments are allocated.

Response:

There is strong support for ensuring that people feel that work is allocated fairly and equitably. The review noted models in place at other institutions, and these will be examined.

Recommendation 3: Faculty need to make greater efforts to respond to requests from staff for assistance and information in a timely fashion.

Response:

There is agreement with this recommendation. Ensuring that staff are felt by everyone to be equal partners in the Faculty's successes is core and a principle that has been important to Dean Holloway since the beginning of his term.

Recommendation 4: The Faculty of Law should consider when and how to engage in its next strategic plan.

Response:

There is agreement with this recommendation and that the Faculty of Law should consider the timing of the development of the next Strategic Plan. It is integral that the plan align properly with *Framework*

through Growth, which along with the Pandemic, has delayed its initiation. There are pros and cons to waiting another two or three years, until the new dean is in place and this is something that the faculty and staff need to discuss together.

PERSONNEL ISSUES (STAFF AND FACULTY)

Recommendation 5: The Faculty of Law and the University should be given the flexibility to offer new professors a salary that includes an appropriate market differential component. Furthermore, when possible, salaries of current professors should be reviewed to ensure that they are comparable with salaries paid to comparative professors at comparable universities.

Response:

This recommendation is true empirically, but the financial reality is that without additional revenue, there are simply no financial resources to pay for market supplements. That is one of the reasons why we have no alternative but to think of revenue generation – including tuition increases as, and when, they are possible. There is also an issue of differences within sub-disciplines. That is a phenomenon well-known in Business Schools, but, to date, has not been as prominent in Law schools. This is an issue that would have to be considered if salaries are adjusted based on market forces.

Recommendation 6: The University should endeavor to increase the salaries of the MaPS staff

Response:

There is agreement with this recommendation, however it is outside the jurisdiction of the Faculty of Law.

Recommendation 7: Where possible, post pandemic, staff should be allowed some flexibility as to where they work such as being able to work one or two days from home.

Response:

This recommendation is already in place as the University of Calgary has initiated a flexible remote working pilot program.

Recommendation 8: The Faculty of Law should employ an additional staff member dedicated to alumni relations.

Response:

There is support for this recommendation, however, there are currently no available resources for a new position.

Recommendation 9: Attention should be paid to updating the Calgary Curriculum.

Response:

We are glad that the reviewers noted that our approach is to be continually tweaking the Calgary Curriculum and experimenting with new courses. This is not the norm in Canadian law schools, and it is one of the things that allows us to be (and to be seen to be!) nimble and responsive to our rapidly changing professional world. We would like to explore more about what the recommended “stock taking” would look like, but it cannot be to make us more like other law schools in their approach to curricular reform. That would represent a tremendous step backwards for the Faculty of Law at the University of Calgary.

Recommendation 10: Greater support should be provided to support and reward teaching excellence.

Response:

We agree with the recommendation in principle, but we would like to have further understanding of the current issue. The Faculty of Law has teaching awards, including a dedicated one for Sessionals. Moreover, there is a significant financial benefit for winning the faculty teaching award.

Recommendation 11: The Faculty should consider the role of clinics and centers in the overall curriculum, alongside risk management in the case of funding reduction or loss.

Response:

There is agreement with this recommendation. If the Faculty of Law decides to hold off on formal strategic planning until the new dean is appointed, this is some useful preparatory work that could be done in the interim.

Recommendation 12: The Faculty should better define the requirement for “theory courses”, include greater numbers of courses within this definition, encourage professors to be clear about their use of theory, and expand course offerings that meet this definition.

Response:

There is agreement with this recommendation. As was indicated in the self-study, this issue is one of the biggest annual difficulties facing the Associate Deans.

RESEARCH

Recommendation 13: The Faculty of Law should create a working group, holding a retreat or a group visioning exercise to reshape, reinvent, rebrand and potentially rename the Faculty’s research focus from Natural Resources Energy and Environmental Law (NREEL) to reflect the research of the Faculty, the general transition to alternative energies and the impact of natural resource extraction on Indigenous peoples. This review should incorporate a review of the work currently undertaken by of the Canadian Institute of Resources Law (CIRL). Furthermore, given the University’s transdisciplinary focus, consideration should be made as to whether faculty members across campus should be part of this new group. After this set of tasks has been completed, a communications strategy should be developed to convey this change to external stakeholders and potential graduate students.

Response:

There is agreement with this recommendation.

Recommendation 14: The Faculty of Law should examine whether Business Law and Cybersecurity could function as another area of research and teaching focus.

Response:

There is agreement with this recommendation. We would note, though, that we are already the national leader in the former, and one of the top two or three in the latter. We are also already part of a broader University initiative regarding Cybersecurity.

Recommendation 15: The Faculty and University at large should consider both incentives for transdisciplinary research and recognition of existing work.

Response:

There is agreement with this recommendation and work is already being undertaken at the central University level.

Recommendation 16: The Faculty should consider teaching relief for faculty members engaged in large externally funded grant projects.

Response:

There is agreement with this recommendation though we would note that this very proposal was put to the faculty just three or four years ago, and it was rejected. It might be time to revisit this idea. There are, however, two additional points that would have to be considered regarding the idea of organizing teaching timetables differently. The first is that it is deeply embedded in our culture that all of the sections of mandatory courses be taught at the same time. In recent years we have benefited from this, when a faculty member has become ill, and we have had to collapse two sections into one. Presumably this concern will only continue to be *more* pertinent in the era of Covid. So it is something that would need to be thought through. The second point is that whatever new arrangements are proposed would still need to be pedagogically sound.

Recommendation 17: The Faculty should consider greater supports for grant applications and administration.

Response:

There is agreement with this recommendation however resources within the Faculty of Law are not currently available to support it.

INDIGENOUS LEGAL ORDERS AND SUPPORT FOR INDIGENOUS STUDENTS

Recommendation 18: The Faculty should consider a course that focuses on Indigenous legal orders, as well as continue to expand on the integration of Indigenous laws throughout the curriculum.

Response:

This is an important issue, worthy of further discussion.

Recommendation 19: The Faculty of Law should consider ways to support readiness to engage in, recognize and understand the “pathways” approach across the curriculum.

Response:

There is agreement with this recommendation.

Recommendation 20: The Faculty of Law should consider diverse and supportive “pathways” approaches in hiring and retaining Indigenous professors.

Response:

There is agreement with this recommendation and we would broaden it to other equity-deserving groups, as well.

Recommendation 21: The Faculty should make the Indigenous Coordinator position full-time.

Response:

There is agreement with this recommendation and it is a key priority for the Faculty of Law, however, there are currently no additional resources to support this.

Recommendation 22: The Faculty should consider an orientation program for Indigenous students.

Response:

This is an important issue, worthy of further discussion. We would note though, that Saskatchewan has recently announced that they are reinstituting their program of preparatory studies for Indigenous law students across Canada. This might have an impact on whether we decide to go our own way.

Recommendation 23: The Faculty should consider a program for local Indigenous students to support their interest in graduate Law studies.

Response:

There is agreement with this recommendation. There may also be value in considering opening up our graduate program (and faculty appointments) to people who don't necessarily have an LLB or JD. There are many people – including in Indigenous communities – who could benefit from legal education, but who don't necessarily want, or need, a three year JD. Other Canadian law schools have found success in appointing professors with PhDs in other disciplines, provided they fill a faculty need.

Recommendation 24: The Faculty should consider specific tenure and promotion criteria for Indigenous professors and a culturally safe tenure process

Response:

There is agreement with this recommendation. The GFC Handbook has recently been revised and Faculty Guidelines are being updated accordingly. This recommendation will be explored within this context.

Recommendation 25: The Faculty should ensure all major curricular changes regarding Indigenous Legal Orders be subject to consultation with Elders.

Response:

There is agreement with this recommendation.

RESOURCES

Recommendation 26: Given the significant challenges regarding resourcing, the Faculty should consider tuition increases as possible.

Response:

There is agreement with this recommendation.

Recommendation 27: The Faculty should investigate certificate programming for lawyers in practice.

Response:

This is worthy of consideration. It should be noted, though, that no Canadian law school has succeeded in developing this as a significant generator of new revenue. Even Osgoode Hall's profit margin on their executive programming is minimal.

FACILITIES AND INFRASTRUCTURE

Recommendation 28: The Faculty should work with the University to identify additional space for the Faculty of Law.

Response:

There are some interesting ideas in this recommendation that are worthy of further consideration. None of them, though, will address the real issue, that the Faculty of Law has outgrown Murray Fraser Hall, both in terms of numbers, and in terms of programming.

EQUITY, DIVERSITY AND INCLUSION

Recommendation 29: Consider appointing a faculty member to serve as Associate Dean for Equity, Diversity and Inclusion.

Response:

This recommendation requires review, for both practical and philosophical reasons. Practically, there has been expressed concern about the proliferation of Associate and Vice Deanships across the University. This led the University to instruct deans not to propose the creation of new ones. Moreover, in a small Faculty like Law there would be serious resource implications to having a third Associate Dean. Philosophically, I worry that creating a dedicated associate deanship in this area might have the

unintended effect of taking it off the desks of other people. In recent years, the Faculty of Law, as was noted in the self-study, has made strides in the EDI area that no other law school can match. We have been aware that proportionately, the Faculty of Law has more faculty and staff of colour than any other Law school in Canada. We also have a far higher degree of minority students than other schools. Furthermore, we have a robust and active EDI Committee which includes faculty, staff and students. We mustn't be complacent about any of this, for there remains much more work to be done. But the reason we've been able to do as much as we have is because all of us have viewed it as a top priority and this will remain in the future.

Conclusion

Overall, the Review Team was impressed with the quality of the Faculty of Law as well as its commitment to its students and the legal profession. We were also impressed with the Faculty of Law's commitment to self-assessment and continuous improvement. Throughout the review, we heard many examples of the excellent work happening within the Faculty of Law; we encourage the Faculty to share their good work with the rest of the University. We were also impressed with the thoughtfulness of students, alumni and community members who are clearly committed to the success of the University of Calgary's Faculty of Law. Faculty and staff understand and work hard to achieve the Faculty's mission. Given that the legal profession in Canada is poised for significant change, the Faculty is well situated to respond to the next generation of legal education. We encourage the Faculty to continue enhancing this future-focused lens. In sum, the review team made 29 recommendations; these should not be viewed as a criticism, but rather as possible ways to enhance the Faculty's existing excellence.

Follow-up

The Review Team recommendations will be revisited mid-way through the cycle. At that point, the Faculty of Law will be required to report on its status in acting on the recommendations, providing explanations and timelines for those which have not been met. This interim report should be submitted to the Provost in August 2024, with the next full review scheduled in 2026-27.